

REMARKS

At the outset, applicant wishes to thank Examiner Michele Kidwell for the courtesies extended during the telephonic interview held on November 23, 2004 with the undersigned attorney. The Examiner's careful attention to the application on that occasion is sincerely appreciated.

Claims 5-8 were rejected under 35 U.S.C. §103(a) as being unpatentable over HJORTH 6,626,882. The Official Action states that the patented reference discloses an absorbent article comprising a liquid permeable topsheet (3), a liquid impermeable backsheet (2) and an absorbent body enclosed therebetween (4). The article has a front portion, a rear portion and a crotch portion therebetween, and a pair of belt portions comprising a first belt portion attached to one side of the rear portion (9), and a second belt portion attached to an opposite side of the rear portion (10). The first belt portion carries first fastening means (11), which in use, are attached against the outside of the second belt portion. The front portion exhibiting second fastening means (8) which in use are attached to the belt portions such that the article will assume a pant shape, where the belt portions form a part of the waist portions of the pant. Each belt portion is provided with at least one indicium placed at an appropriate distance from an attachment of each belt portion to the rear portion. Each indicium on the first belt portion has a corresponding indicium on the second belt portion, and each indicium on the first belt portion is allegedly

symmetrically disposed in a longitudinal direction of the belt portions with a corresponding indicium on the second belt portion.

The Official Action states that the patented reference does not explicitly state that in use, a center line of the article is located at the center of the wearer's back. It is concluded that it would have been obvious to one of ordinary skill in the art to place a center line of the patented article at a center of the wearer's back to ensure that the article provides the expected functions. The rationale for this conclusion is that if a center line of the article is not placed on a center of a wearer's back, then one would expect that the article may leak from the sides and allow undesirable soiling, and also cause discomfort to the wearer due to the unnatural positioning of the leg and waist elastics.

Reconsideration of the above rejection is respectfully requested for the following reasons.

As was explained during the telephonic interview, the patented reference describes an absorbent article, wherein the two ends of the belt portions are of a different color or different geometry to allow them to be distinguished by those with poor eyesight or low lighting conditions.

In sharp contrast to the conclusion advanced in the Official Action, the patented reference does not disclose that "each indicium of the first belt portion is symmetrically disposed in a longitudinal section of the belt portions with the

corresponding indicium on the second belt portion", as is recited in applicant's independent claim 5.

The Official Action makes reference to Figure 1 in this regard. However, Figure 1 of the patented reference does not specify the exact disposition of the two indicia and does not require that they be symmetrically disposed in a longitudinal direction. Indeed, it would appear from Figure 1 of the patented reference that the two belts have different lengths, thereby suggesting that the indicia are not symmetrically disposed.

For an explanation of the phrase "symmetrically disposed" and its importance with respect to the herein-claimed invention, the Examiner is kindly directed to page 5, first paragraph of the original specification. There, it is specified that the belt portions (9,10) are each provided with at least one indicium (12). The indicia (12) on the opposite belt portions are symmetrically placed in the longitudinal direction of the belt portions (9,10) at a certain distance from the attachment (13) of each belt portion to the rear portion of the absorbent article. Thus, each indicium (12) on one belt portion (9) has its corresponding indicium on the opposite belt portion (10), placed at essentially the same distance from the attachment (13) of each belt portion to the rear portion (6) of the article. Upon application of the article, the belt portions are first attached around the waist of the wearer and the indicia (12) on the different belt portions are fitted against each other and are levelled against the navel of the user. Thereby, it is ensured

that the center line (14) of the article is located at the center of the back of the user, since the position of the navel gives the center position on the front side of the user. It follows that the share of the belt portion (9) extending in one direction from the attachment (13) of the belt portion (9) to the rear portion (6) around the user is equally large as the share of the belt portion (10) extending in the other direction around the user.

By contrast, the problem addressed by the patented reference to HJORTH is to provide a diaper or continence guard which shows a user how to apply such a product. (See column 1, lines 58-61). This is especially the case for elderly people, or people with bad eyesight (Column 1, lines 50-55). The patented reference makes no mention of the problems associated with poor fit, especially with centering the article on the back of the user. The conclusion advanced in the Official Action that it would have been obvious to one of ordinary skill in the art to have placed a center line on the article of HJORTH at a center of the wearer's back is predicated on impermissible hindsight. Indeed, it is only with knowledge gleaned from Applicant's disclosure that the above conclusion was reached. It is respectfully submitted that the Office Action merely restates the problem to be addressed, yet provides no suggestion of the solution provided by the newly claimed invention. Clearly, the center of the wearer's back and the center line of the article are two separate considerations, and aligning them is a desirable

outcome. However, there is simply no reason, motivation or suggestion from a fair reading of the patented reference to simply "place a center line on the article of HJORTH at a center of the wearer's back", as there can be no guarantee that alignment will be achieved.

The Official Action interprets the word "symmetrical" as meaning corresponding in size, shape or relative position on opposite sides of a dividing line. Accordingly, it is concluded that the patented article conforms to this definition. Moreover, the Official Action states that "any line on, or point on the back of the diaper may be considered a center line". It is respectfully submitted that this interpretation of applicant's claims is rather broad. The center line of the article is clearly marked as element 14 in Figure 1 of the present invention, and shown as passing through the center of the article. In all instances of the present specification, the center line 14 is referred to in the singular (the center line), meaning that only one line is meant as the center line. If indeed any line or point was meant, this is what would have been stated, rather than stating "the" center line.

When responding to applicant's previous arguments, the Official Action notes that the distance of the indicia 12 from the attachment 13 is not recited in the claims. It is however pointed out that the patented reference fails to disclose or suggest any distances of the indicia 9a and 10a from the attachment.

Nevertheless, as was suggested during the interview, and in order to advance prosecution of this application, it will be seen that claim 5 has been amended so as to recite that each belt portion is provided with a plurality of juxtaposed indicia. In addition, each indicium on the first belt portion has a corresponding indicium on the second belt portion, placed at essentially the same distance from the attachment of each belt portion to the rear portion of the article. Finally, claim 5 now recites that in use, a) an indicium of the first belt portion is fitted against a corresponding indicium of the second belt portion, b) both indicia are leveled against the navel of the wearer, and c) a center line of the article is located at the center of the wearer's back.

As was argued during the telephonic interview, it is readily apparent that the applied reference fails to disclose or suggest a plurality of juxtaposed indicia, having the characteristic features now recited in amended claim 5. It is respectfully submitted that the article, as recited in currently amended claim 5, allows the center line thereof to be correctly placed with respect to the wearer's back. The functional recitation at the end of claim 5, links the symmetrical disposition of the indicia to the location of the center line of the article, allowing correct placement of the article, and having both indicia leveled against the navel of the wearer.

As is reflected in the Examiner Interview Summary Record, the Examiner kindly indicated that the recitation of "a

plurality of juxtaposed indicia" appeared to distinguish over the
HJORTH reference.

In view of the recent interview, the present amendment,
and the foregoing remarks, it is believed that this application
has been placed in condition for allowance. Entry of the present
amendment, reconsideration and allowance are accordingly
solicited.

In the event that there are any questions relating to
this amendment or to the application in general, it would be
appreciated if the Examiner would telephone the undersigned
attorney concerning such questions so that the prosecution of
this application may be expedited.

Respectfully submitted,

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By



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